

AMENDED IN SENATE APRIL 7, 2011

SENATE BILL

No. 551

Introduced by Senator DeSaulnier

February 17, 2011

~~An act relating to state property.~~ *An act to add Article 5 (commencing with Section 6362) to, and to repeal and add Article 4 (commencing with Section 6361) of, Chapter 4 of Part 1 of Division 6 of the Public Resources Code, and to amend Sections 3, 13, and 14 of Chapter 815 of the Statutes of 1976, relating to tidelands, and making an appropriation therefor.*

LEGISLATIVE COUNSEL'S DIGEST

SB 551, as amended, DeSaulnier. State property: *tidelands transfer: Marina City of Pittsburg and City of Martinez Marina.*

(1) Existing law grants tidelands and submerged lands to the City of Pittsburg, subject to specified conditions, for purposes of commerce, navigation, and fisheries, and for other public trust purposes. Existing law grants to the City of Martinez all right, title, and interest of the state to 3 specified parcels of land in the Straits of Carquinez. The Kapiloff Land Bank Act creates the Land Bank Fund and continuously appropriates moneys in the fund, subject to a statutory trust, to the State Lands Commission, acting as the Land Bank Trustee, to acquire real property or any interest in real property for the purposes of public trust title settlements.

This bill would repeal the existing legislative grant to the City of Pittsburg and would enact a new grant of tidelands and submerged lands, as described, to the City of Pittsburg. The bill would also revise the existing legislative grant of tidelands and submerged lands to the City of Martinez to include the Martinez Marina, subject to similar

specified conditions and would make conforming changes relative to this revision. The bill would require the trust lands to be held by each city, as trustee, for the benefit of all the people of the state for purposes consistent with the public trust doctrine, including the protection of maritime or water dependent commerce, navigation, and fisheries, and the preservation of the lands in their natural state for scientific study, open space, wildlife habitat, and water-oriented recreation.

The bill would require, on June 30, 2012, and at the end of every fiscal year thereafter, that 20% of all gross revenues generated from the trust lands be transmitted to the commission, for allocation by the Treasurer, of which 80% would be deposited in the General Fund and 20% in the Kapiloff Land Bank Fund, thereby making an appropriation.

The bill would require the commission, by January 1, 2014, to survey, monument, and record a plat and a metes and bounds description of the trust lands subject to the bill.

The bill would impose a state-mandated local program by requiring, among other things, that the Cities of Pittsburg and Martinez each submit to the commission for its approval a trust lands use plan, as prescribed. The bill would require each city to file a report with the commission by September 30, 2022, and every 5 years thereafter, a detailed statement of its trust land uses and to annually file a report of trust revenues and expenditures.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~Existing law authorizes the disposition of state property, including transfer to local agencies, subject to specified criteria.~~

~~This bill would express the intent of the Legislature to enact legislation to provide for the transfer of the Martinez Marina, currently under the jurisdiction of the State Lands Commission, to the City of Martinez.~~

Vote: ~~majority~~^{2/3}. Appropriation: ~~no~~-yes. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~-yes.

The people of the State of California do enact as follows:

1 *SECTION 1. Article 4 (commencing with Section 6361) of*
2 *Chapter 4 of Part 1 of Division 6 of the Public Resources Code is*
3 *repealed.*

4 *SEC. 2. Article 4 (commencing with Section 6361) is added to*
5 *Chapter 4 of Part 1 of Division 6 of the Public Resources Code,*
6 *to read:*

7
8 *Article 4. Conveyance of Tidelands and Submerged Land to*
9 *the City of Pittsburg*

10
11 *6361. For purposes of this article, the following definitions*
12 *shall apply:*

13 *(a) "Public trust doctrine" means the common law doctrine,*
14 *as enunciated by the court in National Audubon Soc. v. Superior*
15 *Court (1983) 33 C.3d 419, and other relevant judicial decisions,*
16 *specifying the state's authority as sovereign to exercise a*
17 *continuous supervision and control over the navigable waters of*
18 *the state, the lands underlying those waters, and nonnavigable*
19 *tributaries to navigable waters, including the maritime or water*
20 *dependent commerce, navigation, and fisheries, and the*
21 *preservation of lands in their natural state for scientific study,*
22 *open space, wildlife habitat, and water-oriented recreation.*

23 *(b) "State" means the State of California.*

24 *(c) "Trustee" means the City of Pittsburg, a municipal*
25 *corporation of the State of California, in Contra Costa County.*

26 *(d) "Trust lands" means all tidelands and submerged lands,*
27 *whether filled or unfilled, situated within the boundaries of the*
28 *City of Pittsburg including those lands annexed to the City of*
29 *Pittsburg pursuant to Section 56740 of the Government Code on*
30 *December 31, 2009, as surveyed, monumented, and recorded*
31 *pursuant to Section 6361.9, except as provided in Section 6361.8.*

32 *(e) "Trust revenues" means all revenues received from trust*
33 *lands and trust assets.*

34 *(f) "Trust lands use plan" or "plan" means the trust use land*
35 *plan required to be submitted by the trustee to the commission*
36 *pursuant to Section 6361.3.*

1 (g) “Trust lands use report” means the trust lands use report
2 of its utilization of the trust lands required to be submitted by the
3 trustee pursuant to Section 6361.4.

4 6361.1. There is hereby granted in trust to the City of Pittsburg,
5 and to its successors, all of the rights, title, and interest of the
6 state, held by the state by virtue of its sovereignty in and to all tide
7 and submerged lands, whether filled or unfilled, situated in the
8 City of Pittsburg, County of Contra Costa, including those lands
9 annexed to the City of Pittsburg pursuant to Section 56740 of the
10 Government Code on December 31, 2009, as surveyed,
11 monumented, and recorded pursuant to Section 6361.9, except as
12 provided in Section 6361.8.

13 6361.2. The trust grant specified in Section 6361.1 is subject
14 to all of the following express conditions:

15 (a) The trust lands shall be held by the trustee in trust for the
16 benefit of all the people of the state for purposes consistent with
17 the public trust doctrine, including, but not limited to, maritime
18 or water dependent commerce, navigation, and fisheries,
19 preservation of the lands in their natural state for scientific study,
20 open space, wildlife habitat, and water-oriented recreation.

21 (b) On and after January 1, 2012, the use of the trust lands shall
22 conform to an approved trust lands use plan, as required by
23 subdivision (e) of Section 6361.3.

24 (c) The trustee shall not, at any time, grant, convey, give, or
25 otherwise alienate or hypothecate the trust lands, or any part of
26 the trust lands, to any person, firm, entity, or corporation for any
27 purposes whatsoever.

28 (d) The trustee may lease the trust lands, or any part of the trust
29 lands, for limited periods, not exceeding 49 years, for purposes
30 consistent with the trust upon which those lands are held, as
31 specified in subdivision (a). The trustee may collect and retain
32 rents and other trust revenues from those leases, under rules and
33 regulations adopted in accordance with subdivision (d) of Section
34 6361.3, and in accordance with all of the following requirements:

35 (1) On and after January 1, 2012, all leases or agreements
36 proposed or entered into by the trustee shall be consistent with
37 the trust lands use plan approved by the commission, as required
38 by subdivision (e) of Section 6361.3.

39 (2) The lease rental rates shall be for fair market value.

1 (3) *The lease terms shall be consistent with the terms of this*
2 *article.*

3 (4) *The lease shall be in the best interest of the state.*

4 (e) *When managing, conducting, operating, or controlling the*
5 *trust lands or an improvement, betterment, or structure on the*
6 *trust lands, the trustee or his or her successor shall not*
7 *discriminate in rates, tolls, or charges for any use or service in*
8 *connection with those actions and shall not discriminate against*
9 *or unlawfully segregate any person or group of persons because*
10 *of sex, race, color, creed, national origin, ancestry, or physical*
11 *disability for any use or service in connection with those actions.*

12 (f) *The state shall have the right to use without charge, a*
13 *transportation, landing, or storage improvement, betterment, or*
14 *structure constructed upon the trust lands for a vessel or other*
15 *watercraft or railroad owned or operated by, or under contract*
16 *to, the state.*

17 (g) *The trust lands are subject to the express reservation and*
18 *condition that the state may, at any time in the future, use those*
19 *lands, or any portion of those lands, for highway purposes without*
20 *compensation to the City of Pittsburg or a person, firm, or public*
21 *or private corporation claiming a right to those lands, except if*
22 *the improvements have been placed with legal authority upon the*
23 *property taken by the state for highway purposes, compensation*
24 *shall be made to the person entitled to the value of the interest in*
25 *the improvements taken or the damages to that interest.*

26 (h) *There is reserved to the people of the state the right to fish*
27 *in the waters over the trust lands, with the right of convenient*
28 *access to those waters over the trust lands for this purpose.*

29 (i) *There is excepted and reserved to the state all remains or*
30 *artifacts of archeological or historical significance and all deposits*
31 *of minerals, including, but not limited to, all substances specified*
32 *in Section 6407 in the trust lands, and the right to prospect for,*
33 *mine, and remove those deposits from the lands.*

34 (j) *The trustee shall not authorize a capital outlay project, lease,*
35 *or agreement for port industrial facilities, including, but not limited*
36 *to, a marine terminal, pipeline, or other related energy facility,*
37 *on the trust lands without first requesting and receiving the*
38 *approval of the commission. Prior to approving a capital outlay*
39 *project, lease, or agreement, the commission shall consult with*
40 *other governmental agencies, and the commission shall not*

1 *approve the project, lease, or agreement, unless the commission*
2 *determines that the project is in, and for, the best interest of the*
3 *people of the state and consistent with applicable provisions of*
4 *law.*

5 *(k) The trustee shall reimburse the commission for all expenses*
6 *incurred in the administration of this article, including periodic*
7 *audits or investigations.*

8 *6361.3. (a) On or before January 1, 2017, the trustee shall*
9 *submit to the commission a trust lands use plan describing any*
10 *proposed development, preservation, or other use of the trust lands.*
11 *The trustee shall thereafter submit to the commission for approval*
12 *all changes of, amendments to, or extensions of, the trust lands*
13 *use plan.*

14 *(b) The commission shall review with reasonable promptness*
15 *the trust lands use plan submitted by the trustee and any changes*
16 *or amendments to determine whether they are consistent with the*
17 *public trust and the requirements of this article. Based upon its*
18 *review, the commission shall either approve or disapprove the*
19 *plan. If the commission disapproves the plan the commission shall*
20 *notify the trustee and the trustee shall submit a revised plan to the*
21 *commission no later than 180 days after the date of notice of*
22 *disapproval. If the commission determines the revised plan is*
23 *inconsistent with the common law public trust doctrine and the*
24 *requirements of this article, all rights, title, and interest of the*
25 *trustee in and to the trust lands and improvements on the trust*
26 *lands shall revert to the state.*

27 *(c) The trust lands use plan shall consist of a plan, program,*
28 *or other document that includes all of the following:*

29 *(1) A general description of the type of uses planned or proposed*
30 *for the trust lands. The location of these land uses shall be shown*
31 *on a map or aerial photograph.*

32 *(2) The projected statewide benefit to be derived from the*
33 *planned or proposed uses of the trust lands, including, but not*
34 *limited to, the financial benefit and the furtherance of those*
35 *purposes set forth in Section 6361.2.*

36 *(3) The proposed method of financing the planned or proposed*
37 *uses of the trust lands, including estimated capital costs, annual*
38 *operating costs, and anticipated annual trust revenues.*

39 *(4) An estimated timetable for implementation of the trust land*
40 *use plan or any phase of the plan.*

1 (5) A description of how the trustee proposes to protect and
2 preserve natural and manmade resources and facilities located
3 on trust lands and operated in connection with the use of the trust
4 lands, including, but not limited to, addressing impacts from sea
5 level rise.

6 (d) The governing body of the trustee shall also submit to the
7 commission, as part of the trust lands use plan, for its approval,
8 procedures, rules, and regulations to govern the use of or
9 development of the trust lands. These rules and regulations shall
10 include, but are not limited to, lease rates, the basis upon which
11 the rates are established, lease terms and conditions, provisions
12 for renegotiation of rates and terms and assignments, and any
13 other information as may be required by the commission.

14 (e) Any use of the trust lands, including, but not limited to, all
15 leases or agreements proposed, or entered into, by the trustee after
16 January 1, 2012, shall be consistent with the trust lands use plan
17 submitted by the trustee and approved by the commission.

18 (f) Upon request, the trustee shall submit to the commission a
19 copy of all leases and agreements entered into, renewed, or
20 renegotiated.

21 6361.4. (a) On or before September 30, 2022, and on or before
22 September 30 of every succeeding fifth year, the trustee shall
23 submit a report of its utilization of the trust lands for each
24 immediately preceding five-calendar-year period ending with June
25 30 of the calendar year in which the report is required to be
26 submitted.

27 (b) The report required by this section shall include all of the
28 following:

29 (1) A general description of the uses to which the trust lands
30 have been placed during the period covered by the report.

31 (2) A list of the holders of leases or permits that have been
32 granted or issued by the trustee, which list shall specify all of the
33 following, as to each holder:

34 (A) The use to which the trust lands have been placed by the
35 owner or holder.

36 (B) The consideration provided for in each lease or permit, and
37 the consideration actually received by the trustee for the lease or
38 permit granted or issued.

1 (C) An enumeration of the restrictions that the trustee has placed
2 on the use of the trust lands, and each area of the trust lands, for
3 the period covered by the report.

4 6361.5. (a) The trustee shall demonstrate good faith in
5 carrying out the provisions of its trust land use plan and amending
6 it when necessary in accordance with Section 6361.3.

7 (b) If the commission determines that the trustee substantially
8 failed to improve, restore, preserve, or maintain the trust lands,
9 as required by the trust land use plan, or has unreasonably delayed
10 implementation of their trust use plan, all rights, title, and interest
11 of the trustee in and to the trust lands and improvements on the
12 trust lands shall revert to the state.

13 6361.6. (a) (1) The trustee shall establish and maintain
14 accounting procedures, in accordance with generally accepted
15 accounting principles, providing accurate records of all revenues
16 received from the trust lands and trust assets and of all
17 expenditures of those revenues.

18 (2) All trust revenues received from trust lands and trust assets
19 shall be expended only for those uses and purposes consistent with
20 this article. The trustee shall provide for the segregation of funds
21 derived from the use of the trust lands by the trustee from other
22 city municipal funds, so as to ensure that trust revenues are only
23 expended to enhance or maintain the trust lands in accordance
24 with the uses and purposes for which the trust lands are held.

25 (3) Trust revenues may be expended to acquire appropriate
26 upland properties to benefit and enhance the trust, subject to a
27 determination by the commission that this acquisition is consistent
28 with this article and in the best interests of the state. Property
29 acquired with these trust revenues shall be considered an asset of
30 the trust and subject to the terms and conditions of this article.

31 (b) On or before October 1 of each year, the trustee shall file
32 with the commission a detailed statement of all trust revenues and
33 expenditures relating to its trust lands and trust assets, including
34 obligations incurred but not yet paid, covering the fiscal year
35 preceding submission of the statement. The commission may specify
36 the form and content of this statement. The statement shall meet
37 both of the following requirements:

38 (1) The statement shall be prepared according to generally
39 accepted accounting principles.

1 (2) *The statement shall be specific to the trust lands and trust*
2 *assets and shall not include city municipal financial or accounting*
3 *information unrelated to the trust lands and trust assets.*

4 (c) (1) *Before expending trust revenues for any single capital*
5 *improvement on the trust lands involving an amount in excess of*
6 *two hundred fifty thousand dollars (\$250,000) in the aggregate,*
7 *the trustee shall file with the commission a detailed description of*
8 *the capital improvement not less than 120 days prior to the time*
9 *of any disbursement of trust revenues for, or in connection with,*
10 *that capital improvement.*

11 (2) *Within 120 days after the time of a filing specified in*
12 *paragraph (1), the commission shall determine, whether the capital*
13 *improvement is in the statewide interest and benefit and is*
14 *consistent with this article. The commission may request the*
15 *opinion of the Attorney General on the matter, and if the*
16 *commission makes this request, the Attorney General shall deliver*
17 *a copy of the opinion to the trustee with the notice of its*
18 *determination.*

19 (3) *If the commission notifies the trustee that the capital*
20 *improvement is not authorized, the trustee shall not disburse any*
21 *trust revenues for, or in connection with, the capital improvement,*
22 *unless it is determined to be authorized by a final order or*
23 *judgment of a court of competent jurisdiction.*

24 (4) *The trustee may bring suit against the state for the purpose*
25 *of securing an order or judgment for purposes of paragraph (3),*
26 *which suit shall have priority over all other civil matters. Service*
27 *shall be made upon the executive officer of the commission and*
28 *the Attorney General, and the Attorney General shall defend the*
29 *state in that suit. If judgment is given against the state in the suit,*
30 *no costs may be recovered.*

31 (d) *On June 30, 2012, and at the end of every fiscal year*
32 *thereafter, 20 percent of all gross revenue generated from the trust*
33 *lands shall be transmitted to the commission. Of this amount*
34 *transmitted, the commission shall allocate 80 percent to the*
35 *Treasurer, for deposit in the General Fund, and 20 percent to the*
36 *Treasurer, for deposit in the Kapiloff Land Bank Fund for*
37 *expenditure pursuant to Division 7 (commencing with Section*
38 *8600) for management of the commission's grant lands program.*

39 (e) *The commission may, from time to time, institute a formal*
40 *inquiry to determine that the terms and conditions of this article,*

1 *and amendments to this article, have been complied with, and that*
2 *all other applicable provisions of law concerning the trust lands*
3 *are being complied with in good faith.*

4 *(f) The commission shall approve in advance of expenditure*
5 *any reimbursement for expenditures of nontrust revenues for*
6 *improvements made to the trust or, if not approved, those*
7 *expenditures shall be deemed a gift to the trust.*

8 *6361.7. (a) If the commission finds that the trustee has violated*
9 *or is about to violate the terms of its trust grant or any other*
10 *principle of law relating to its obligation under the public trust*
11 *doctrine or under this article, the commission shall notify the*
12 *trustee of the violation.*

13 *(b) The trustee shall have 30 days from receipt of a notice of*
14 *violation to conform to the terms of its grant and the principles*
15 *and laws under the public trust doctrine. If the trustee fails or*
16 *refuses to take those actions, the commission may bring an action*
17 *to enforce the rights of the state and people as settlor beneficiary*
18 *of the public trust doctrine.*

19 *(c) The Attorney General shall represent the state and people*
20 *in all actions or proceedings taken pursuant to this section. If the*
21 *judgment is given against the state in the action or proceeding, no*
22 *costs shall be recovered from the state and people.*

23 *6361.8. The lands identified as Brown's Island, Commission*
24 *Lease Number PRC 4966 CPN Pipeline, and Commission Lease*
25 *Number PRC 8736 are not included as trust lands for purposes of*
26 *this article.*

27 *6361.9. (a) On or before January 1, 2014, the commission*
28 *shall survey, monument, and record a plat and a metes and bounds*
29 *description of the trust lands in the office of the county recorder*
30 *in the county or counties in which the lands are located. Upon*
31 *recordation, the survey, monuments, plat and description shall be*
32 *binding upon the state, the grantee, and their successors in interest.*

33 *(b) The cost of the survey and recordation shall be paid by the*
34 *trustee.*

35 *(c) The requirements of Section 6359 do not apply to the trust*
36 *lands granted pursuant to this article.*

37 *SEC. 3. Article 5 (commencing with Section 6362) is added to*
38 *Chapter 4 of Part 1 of Division 6 of the Public Resources Code,*
39 *to read:*

Article 5. *Conveyance of Tidelands and Submerged Land to
the City of Martinez*

6362. *For purposes of this article, the following definitions
shall apply:*

(a) *“Public trust doctrine” means the common law doctrine,
as enunciated by the court in National Audubon Soc. v. Superior
Court (1983) 33 C.3d 419, and other relevant judicial decisions,
specifying the state’s authority as sovereign to exercise a
continuous supervision and control over the navigable waters of
the state, the lands underlying those waters, and nonnavigable
tributaries to navigable waters, including the protection of
maritime or water dependent commerce, navigation, and fisheries,
and the preservation of the lands in their natural state for scientific
study, open space, wildlife habitat, and water-oriented recreation.*

(b) *“State” means the State of California.*

(c) *“Trustee” means the City of Martinez, a municipal
corporation of the State of California, in Contra Costa County.*

(d) *“Trust lands” means all tidelands and submerged lands,
whether filled or unfilled, granted pursuant to Chapter 815 of the
Statutes of 1976, as revised pursuant to Section 6362.1, situated
in the City of Martinez, County of Contra Costa, and as surveyed,
monumented, and recorded pursuant to Section 6362.9.*

(e) *“Trust revenues” means all revenues received from trust
lands and trust assets.*

(f) *“Trust lands use plan” or “plan” means the trust use land
plan required to be submitted by the trustee to the commission
pursuant to Section 6362.3.*

(g) *“Trust lands use report” means the trust lands use report
of its utilization of the trust lands required to be submitted by the
trustee pursuant to Section 6362.4.*

6362.1. (a) *The grant made pursuant to Section 3 of Chapter
815 of the Statutes of 1976, as amended by Section 1 of Chapter
387 of the Statutes of 2002, is hereby amended and recodified.*

(b) *There is hereby granted to the City of Martinez, and to its
successors, all right, title, and interest of the state held by virtue
of its sovereignty in and to the Martinez Marina and the three
parcels of land situated in the County of Contra Costa and
described as follows:*

1 *Parcel "A"*

2 *Commencing at the intersection of the north line of Tideland*
3 *Survey No. 9 and the east line of North Court Street as shown on*
4 *Map of "City of Martinez Waterfront Area" filed March 10, 1955,*
5 *in Volume 16, Pages 39 to 43, Licensed Surveyor's Maps in the*
6 *Office of the Contra Costa County Recorder; thence along said*
7 *northerly line of Tideland Survey No. 9 North 76° 56' 53" East*
8 *488.36 feet; thence leaving said northerly line North 20° 03' 30"*
9 *West 130.00 feet; thence North 63° 50' 00" East 85.00 feet to the*
10 *true point of beginning; thence North 03° 30' 00" East 110.00*
11 *feet; thence North 12° 10' 00" East 660.00 feet; thence North 05°*
12 *05' 39" West 119.71 feet; thence North 88° 03' 16" East 242.85*
13 *feet; thence South 12° 10' 00" West 797.24 feet; thence South 63°*
14 *50' 00" West 233.84 feet to the point of beginning.*

15
16 *Parcel "B"*

17 *Commencing at the intersection of the north line of Tideland*
18 *Survey No. 9 and the east line of North Court Street as shown on*
19 *Map of "City of Martinez Waterfront Area" filed March 10, 1955,*
20 *in Volume 16, Pages 39 to 43, Licensed Surveyor's Maps in the*
21 *Office of the Contra Costa County Recorder; thence along said*
22 *northerly line of Tideland Survey No. 9 North 76° 56' 53" East*
23 *488.36 feet; thence leaving said northerly line North 20° 03' 30"*
24 *West 130.00 feet; thence North 63° 50' 00" East 318.84 feet to the*
25 *true point of beginning being the southeasterly corner of Parcel*
26 *"A" described above; thence North 12° 10' 00" East 797.24 feet*
27 *along the east line of said Parcel "A"; thence leaving said east*
28 *line North 88° 03' 16" East 156.26 feet; thence South 89° 00' 00"*
29 *East 100.00 feet; thence South 66° 20' 00" East 120.00 feet; thence*
30 *South 25° 45' 00" East 453.00 feet; thence South 68° 10' 00" West*
31 *385.00 feet; thence South 63° 50' 00" West 416.16 feet to the point*
32 *of beginning.*

33
34 *Parcel "C"*

35 *That parcel of land described in the lease to the Southern Pacific*
36 *Transportation Company by the City of Martinez per Resolution*
37 *No. 111 (1959 series) dated August 5, 1959, and Resolution No.*
38 *72-75 dated June 4, 1975.*

39 *The bearings and distances used in the above descriptions of*
40 *Parcels "A" and "B" are based on the California Coordinate*

1 *System Zone 3 as shown on Map of “City of Martinez Waterfront*
2 *Area” filed March 10, 1955, in Volume 16, Pages 39 to 43,*
3 *Licensed Surveyor’s Maps in the Office of the Contra Costa County*
4 *Recorder.*

5 *(c) These lands shall be held by the city and its successor in*
6 *trust for the following uses, in which there is a general, statewide*
7 *interest, and upon the following express conditions:*

8 *(1) The Martinez Marina shall be used only for marina purposes.*

9 *(2) Parcel “A” shall be used only for Marina spoils and spoil*
10 *removal, parking, boat storage, chandlery, recreation, landscaping,*
11 *and any other use permitted by the Martinez Waterfront Land Use*
12 *Plan.*

13 *(3) Parcel “B” shall be used only for Marina spoils and spoil*
14 *removal and any other use permitted by the Martinez Waterfront*
15 *Land Use Plan.*

16 *(4) Parcel “C” shall be used only in its present use as a railroad*
17 *right-of-way.*

18 *(d) Further, all of these uses shall accord with the terms and*
19 *conditions of the lease and agreements specified in subdivision (f)*
20 *of Section 1 of Chapter 815 of the Statutes of 1976, and the*
21 *development and operation of the entire area of these parcels shall*
22 *be under the supervision of the City-State Committee, in the same*
23 *manner as is presently provided by the lease and agreements with*
24 *respect to lands subject to the lease and agreements.*

25 *(e) The grant made by this section shall not become effective*
26 *unless and until the city files quitclaim to all previously granted*
27 *tidelands that are within the area hereby granted to the district*
28 *by Chapter 815 of the Statutes of 1976 and described in Section*
29 *15 of Chapter 815 of the Statutes of 1976.*

30 *6362.2. The trust grant specified in Section 6362.1 is subject*
31 *to all of the following express conditions:*

32 *(a) The trust lands shall be held by the trustee in trust for the*
33 *benefit of all the people of the state for purposes consistent with*
34 *the public trust doctrine, including, but not limited to, maritime*
35 *or water dependent commerce, navigation, and fisheries,*
36 *preservation of the lands in their natural state for scientific study,*
37 *open space, wildlife habitat, and water-oriented recreation.*

38 *(b) On and after January 1, 2012, the use of the trust lands shall*
39 *conform to an approved trust lands use plan, as required by*
40 *subdivision (e) of Section 6362.3.*

1 (c) The trustee shall not, at any time, grant, convey, give, or
2 otherwise alienate or hypothecate the trust lands, or any part of
3 the trust lands, to any person, firm, entity, or corporation for any
4 purposes whatsoever.

5 (d) The trustee may lease the trust lands, or any part of the trust
6 lands, for limited periods, not exceeding 49 years, for purposes
7 consistent with the trust upon which those lands are held, as
8 specified in subdivision (a). The trustee may collect and retain
9 rents and other trust revenues from those leases, under rules and
10 regulations adopted in accordance with subdivision (d) of Section
11 6362.3, in accordance with the following requirements:

12 (1) All leases or agreements proposed or entered into by the
13 trustee shall be consistent with the trust lands use plan approved
14 by the commission, as required by subdivision (e) of Section
15 6362.3.

16 (2) The lease rental rates shall be for fair market value.

17 (3) The lease terms shall be consistent with the terms of this
18 act.

19 (4) The lease shall be in the best interest of the state.

20 (e) When managing, conducting, operating, or controlling the
21 trust lands or an improvement, betterment, or structure on the
22 trust lands, the trustee or his or her successor shall not
23 discriminate in rates, tolls, or charges for any use or service in
24 connection with those actions and shall not discriminate against
25 or unlawfully segregate any person or group of persons because
26 of sex, race, color, creed, national origin, ancestry, or physical
27 disability for any use or service in connection with those actions.

28 (f) The state shall have the right to use without charge, a
29 transportation, landing, or storage improvement, betterment, or
30 structure constructed upon the trust lands for a vessel or other
31 watercraft or railroad owned or operated by, or under contract
32 to, the state.

33 (g) The trust lands are subject to the express reservation and
34 condition that the state may, at any time in the future, use those
35 lands, or any portion of those lands, for highway purposes without
36 compensation to the City of Martinez or a person, firm, or public
37 or private corporation claiming a right to those lands, except if
38 improvements have been placed with legal authority upon the
39 property taken by the state for highway purposes, compensation

1 *shall be made to the person entitled to the value of the interest in*
2 *the improvements taken or the damages to that interest.*

3 *(h) There is reserved to the people of the state the right to fish*
4 *in the waters over the trust lands, with the right of convenient*
5 *access to such waters over the trust lands for this purpose.*

6 *(i) There is excepted and reserved to the state all remains or*
7 *artifacts of archeological or historical significance and all deposits*
8 *of minerals, including, but not limited to, all substances specified*
9 *in Section 6407 in the trust lands, and the right to prospect for,*
10 *mine, and remove those deposits from the lands.*

11 *(j) The trustee shall not authorize a capital outlay project, lease,*
12 *or agreement for port industrial facilities, including, but not limited*
13 *to, a marine terminal, pipeline, or other related energy facility,*
14 *on the trust lands without first requesting and receiving the*
15 *approval of the commission. Prior to approving a capital outlay*
16 *project, lease, or agreement, the commission shall consult with*
17 *other governmental agencies, and the commission shall not*
18 *approve the project, lease, or agreement, unless the commission*
19 *determines that the project is in, and for, the best interest of the*
20 *people of the state and consistent with applicable provisions of*
21 *law.*

22 *(k) The trustee shall reimburse the commission for all expenses*
23 *incurred in the administration of this article, including periodic*
24 *audits or investigations.*

25 *6362.3. (a) On or before January 1, 2017, the trustee shall*
26 *submit to the commission a trust lands use plan describing any*
27 *proposed development, preservation, or other use of the trust lands.*
28 *The trustee shall thereafter submit to the commission for approval*
29 *all changes of, amendments to, or extensions of, the trust lands*
30 *use plan.*

31 *(b) The commission shall review with reasonable promptness*
32 *the trust lands use plan submitted by the trustee and any changes*
33 *or amendments to determine that they are consistent with the public*
34 *trust and the requirements of this article. Based upon its review,*
35 *the commission shall either approve or disapprove the plan. If the*
36 *commission disapproves the plan the commission shall notify the*
37 *trustee and the trustee shall submit a revised plan to the*
38 *commission no later than 180 days after the date of notice of*
39 *disapproval. If the commission determines the revised plan is*
40 *inconsistent with the common law public trust doctrine and the*

1 requirements of this article, all rights, title, and interest of the
2 trustee in and to the trust lands and improvements on the trust
3 lands shall revert to the state.

4 (c) The trust lands use plan shall consist of a plan, program,
5 or other document that includes all of the following:

6 (1) A general description of the type of uses planned or proposed
7 for the trust lands. The location of these land uses shall be shown
8 on a map or aerial photograph.

9 (2) The projected statewide benefit to be derived from the
10 planned or proposed uses of the trust lands, including, but not
11 limited to, the financial benefit and the furtherance of those
12 purposes set forth in Section 6362.2.

13 (3) The proposed method of financing the planned or proposed
14 uses of the trust lands, including estimated capital costs, annual
15 operating costs, and anticipated annual trust revenues.

16 (4) An estimated timetable for implementation of the trust land
17 use plan or any phase of the plan.

18 (5) A description of how the trustee proposes to protect and
19 preserve natural and manmade resources and facilities located
20 on trust lands and operated in connection with the use of the trust
21 lands, including, but not limited to, addressing impacts from sea
22 level rise.

23 (d) The governing body of the trustee shall also submit to the
24 commission, as part of the trust lands use plan, for its approval,
25 procedures, rules, and regulations to govern the use of or
26 development of the trust lands. These rules and regulations shall
27 include, but not be limited to, lease rates, the basis upon which
28 the rates are established, lease terms and conditions, provisions
29 for renegotiation of rates and terms and assignments, and any
30 other information as may be required by the commission.

31 (e) Any use of the trust lands, including, but not limited to, all
32 leases or agreements proposed, or entered into, by any trustee
33 after January 1, 2012, shall be consistent with the trust lands use
34 plan submitted by the trustee and approved by the commission.

35 (f) Upon request, the trustee shall submit to the commission a
36 copy of all leases and agreements entered into, renewed, or
37 renegotiated.

38 6362.4. (a) On or before September 30, 2022, and on or before
39 September 30 of every succeeding fifth year, the trustee shall
40 submit a report of its utilization of the trust lands for each

1 *immediately preceding five-calendar-year period ending with June*
2 *30 of the calendar year in which the report is required to be*
3 *submitted.*

4 *(b) The report required by this section shall include all of the*
5 *following:*

6 *(1) A general description of the uses to which the trust lands*
7 *have been placed during the period covered by the report.*

8 *(2) A list of the holders of leases or permits that have been*
9 *granted or issued by the trustee, which list shall specify all of the*
10 *following, as to each holder:*

11 *(A) The use to which the trust lands have been placed by the*
12 *owner or holder.*

13 *(B) The consideration provided for in each lease or permit, and*
14 *the consideration actually received by the trustee for the lease or*
15 *permit granted or issued.*

16 *(C) An enumeration of the restrictions that the trustee has placed*
17 *on the use of the trust lands, and each area of the trust lands, for*
18 *the period covered by the report.*

19 *6362.5. (a) The trustee shall demonstrate good faith in*
20 *carrying out the provisions of its trust land use plan and amending*
21 *it when necessary in accordance with Section 6362.3.*

22 *(b) If the commission determines that the trustee substantially*
23 *failed to improve, restore, preserve, or maintain the trust lands,*
24 *as required by the trust land use plan, or has unreasonably delayed*
25 *implementation of their trust use plan, all rights, title, and interest*
26 *of the trustee in and to the trust lands and improvements on the*
27 *trust lands shall revert to the state.*

28 *6362.6. (a) (1) The trustee shall establish and maintain*
29 *accounting procedures, in accordance with generally accepted*
30 *accounting principles, providing accurate records of all revenues*
31 *received from the trust lands and trust assets and of all*
32 *expenditures of those revenues.*

33 *(2) All trust revenues received from trust lands and trust assets*
34 *shall be expended only for those uses and purposes consistent with*
35 *this article, so as provided for in the segregation of funds derived*
36 *from the use of the trust lands by the trustee from other city*
37 *municipal funds, and to ensure that trust revenues are only*
38 *expended to enhance or maintain the trust lands in accordance*
39 *with the uses and purposes for which the trust lands are held.*

1 (3) Trust revenues may be expended or used to acquire
2 appropriate upland properties to benefit and enhance the trust,
3 subject to a determination by the commission that this acquisition
4 is consistent with this article and in the best interests of the state.
5 Property acquired with these trust revenues shall be considered
6 an asset of the trust and subject to the terms and conditions of this
7 article.

8 (b) On or before October 1 of each year, the trustee shall file
9 with the commission a detailed statement of all trust revenues and
10 expenditures relating to its trust lands and trust assets, including
11 obligations incurred but not yet paid, covering the fiscal year
12 preceding submission of the statement. The commission may specify
13 the form and content of this statement. The statement shall meet
14 both of the following requirements:

15 (1) The statement shall be prepared according to generally
16 accepted accounting principles.

17 (2) The statement shall be specific to the trust lands and trust
18 assets and shall not include city municipal financial or accounting
19 information unrelated to the trust lands and trust assets.

20 (c) (1) Before expending trust revenues for any single capital
21 improvement on the trust lands involving an amount in excess of
22 two hundred fifty thousand dollars (\$250,000) in the aggregate,
23 the trustee shall file with the commission a detailed description of
24 the capital improvement not less than 120 days prior to the time
25 of any disbursement of trust revenues for, or in connection with,
26 that capital improvement.

27 (2) Within 120 days after the time of a filing specified in
28 paragraph (1), the commission shall determine, whether the capital
29 improvement is in the statewide interest and benefit and is
30 consistent with this article. The commission may request the
31 opinion of the Attorney General on the matter; and if it does so,
32 a copy of the opinion shall be delivered to the trustee with the
33 notice of its determination.

34 (3) If the commission notifies the trustee that the capital
35 improvement is not authorized, the trustee shall not disburse any
36 trust revenues for, or in connection with, the capital improvement,
37 unless it is determined to be authorized by a final order or
38 judgment of a court of competent jurisdiction.

39 (4) The trustee may bring suit against the state for the purpose
40 of securing an order or judgment for purposes of paragraph (3),

1 *which suit shall have priority over all other civil matters. Service*
2 *shall be made upon the executive officer of the commission and*
3 *the Attorney General, and the Attorney General shall defend the*
4 *state in that suit. If judgment is given against the state in the suit,*
5 *no costs may be recovered.*

6 *(d) On June 30, 2012, and at the end of every fiscal year*
7 *thereafter, 20 percent of all gross revenue generated from the trust*
8 *lands shall be transmitted to the commission. Of this amount*
9 *transmitted, 80 percent shall be transferred to the General Fund*
10 *and 20 percent shall be deposited into the Kapiloff Land Bank*
11 *Fund (Division 7 (commencing with Section 8600) for expenditure*
12 *pursuant to that division for management of the commission's*
13 *granted lands program.*

14 *(e) The commission may, from time to time, institute a formal*
15 *inquiry to determine that the terms and conditions of this article,*
16 *and amendments to this article, have been complied with, and that*
17 *all other applicable provisions of law concerning the trust lands*
18 *are being complied with in good faith.*

19 *(f) The commission shall approve in advance of expenditure*
20 *any reimbursement for expenditures of nontrust revenues for*
21 *improvements made to the trust or, if not approved, those*
22 *expenditures shall be deemed a gift to the trust.*

23 *6362.7. (a) If the commission finds that the trustee has violated*
24 *or is about to violate the terms of its trust grant or any other*
25 *principle of law relating to its obligation under the public trust*
26 *doctrine or under this article, the commission shall notify the*
27 *trustee of the violation.*

28 *(b) The trustee shall have 30 days from receipt of a notice of*
29 *violation to conform to the terms of its grant and the principles*
30 *and laws under the public trust doctrine. If the trustee fails or*
31 *refuses to take those actions, the commission may bring an action*
32 *to enforce the rights of the state and people as settlor beneficiary*
33 *of the public trust doctrine.*

34 *(c) The Attorney General shall represent the state and people*
35 *in all actions or proceedings taken pursuant to this section. If the*
36 *judgment is given against the state in the action or proceeding, no*
37 *costs shall be recovered from the state and people.*

38 *6362.9. (a) On or before January 1, 2014, the commission*
39 *shall survey, monument, and record a plat and a metes and bounds*
40 *description of the trust lands in the office of the county recorder*

1 *in the county or counties in which the lands are located. Upon*
2 *recordation, the survey, monuments, plat and description shall be*
3 *binding upon the state, the grantee, and their successors in interest.*

4 *(b) The cost of the survey and recordation shall be paid by the*
5 *trustee.*

6 *(c) The requirements of Section 6359 do not apply to the trust*
7 *lands granted pursuant to this article.*

8 *SEC. 4. Section 3 of Chapter 815 of the Statutes of 1976, as*
9 *amended by Section 1 of Chapter 387 of the Statutes of 2002, is*
10 *amended to read:*

11 *Sec. 3. (a) The grant made pursuant to this section is hereby*
12 *amended and recodified as Section 6362.1 of the Public Resources*
13 *Code and shall be subject to Article 5 (commencing with Section*
14 *6362) of Chapter 4 of Part 1 of Division 6 of the Public Resources*
15 *Code.*

16 *(b) There is hereby granted to the City of Martinez, and to its*
17 *successors, all right, title, and interest of the state held by virtue*
18 *of its sovereignty in and to the Martinez Marina and the three*
19 *parcels of land situated in the County of Contra Costa and*
20 *described as follows:*

21
22 Parcel "A"

23 Commencing at the intersection of the north line of Tideland
24 Survey No. 9 and the east line of North Court Street as shown on
25 Map of "City of Martinez Waterfront Area" filed March 10, 1955,
26 in Volume 16, Pages 39 to 43, Licensed Surveyor's Maps in the
27 Office of the Contra Costa County Recorder; thence along said
28 northerly line of Tideland Survey No. 9 North 76° 56' 53" East
29 488.36 feet; thence leaving said northerly line North 20° 03' 30"
30 West 130.00 feet; thence North 63° 50' 00" East 85.00 feet to the
31 true point of beginning; thence North 03° 30' 00" East 110.00 feet;
32 thence North 12° 10' 00" East 660.00 feet; thence North 05° 05'
33 39" West 119.71 feet; thence North 88° 03' 16" East 242.85 feet;
34 thence South 12° 10' 00" West 797.24 feet; thence South 63° 50'
35 00" West 233.84 feet to the point of beginning.

36
37 Parcel "B"

38 Commencing at the intersection of the north line of Tideland
39 Survey No. 9 and the east line of North Court Street as shown on
40 Map of "City of Martinez Waterfront Area" filed March 10, 1955,

1 in Volume 16, Pages 39 to 43, Licensed Surveyor's Maps in the
2 Office of the Contra Costa County Recorder; thence along said
3 northerly line of Tideland Survey No. 9 North 76° 56' 53" East
4 488.36 feet; thence leaving said northerly line North 20° 03' 30"
5 West 130.00 feet; thence North 63° 50' 00" East 318.84 feet to
6 the true point of beginning being the southeasterly corner of Parcel
7 "A" described above; thence North 12° 10' 00" East 797.24 feet
8 along the east line of said Parcel "A"; thence leaving said east line
9 North 88° 03' 16" East 156.26 feet; thence South 89° 00' 00" East
10 100.00 feet; thence South 66° 20' 00" East 120.00 feet; thence
11 South 25° 45' 00" East 453.00 feet; thence South 68° 10' 00" West
12 385.00 feet; thence South 63° 50' 00" West 416.16 feet to the point
13 of beginning.

14
15 Parcel "C"

16 That parcel of land described in the lease to the Southern Pacific
17 Transportation Company by the City of Martinez per Resolution
18 No. 111 (1959 series) dated August 5, 1959, and Resolution No.
19 72-75 dated June 4, 1975.

20 The bearings and distances used in the above descriptions of
21 Parcels "A" and "B" are based on the California Coordinate System
22 Zone 3 as shown on Map of "City of Martinez Waterfront Area"
23 filed March 10, 1955, in Volume 16, Pages 39 to 43, Licensed
24 Surveyor's Maps in the Office of the Contra Costa County
25 Recorder.

26 ~~(b) Such~~

27 (c) *These* lands shall be held by the city and its successor in
28 trust for the following uses, in which there is a general, statewide
29 interest, and upon the following express conditions:

30 (1) *The Martinez Marina shall be used only for marina purposes.*

31 ~~Parcel~~

32 (2) *Parcel "A"* shall be used only for Marina spoils and spoil
33 removal, parking, boat storage, chandlery, recreation, landscaping,
34 and any other use permitted by the Martinez Waterfront Land Use
35 Plan.

36 ~~Parcel~~

37 (3) *Parcel "B"* shall be used only for Marina spoils and spoil
38 removal and any other use permitted by the Martinez Waterfront
39 Land Use Plan.

40 ~~Parcel~~

1 (4) *Parcel “C”* shall be used only in its present use as a railroad
2 right-of-way.

3 ~~Further~~

4 (d) *Further*, all ~~such~~ *of these* uses shall accord with the terms
5 and conditions of the lease and agreements specified in subdivision
6 (f) of Section 1 *of Chapter 815 of the Statutes of 1976*, and the
7 development and operation of the entire area of ~~such~~ *these* parcels
8 shall be under the supervision of the City-State Committee, in the
9 same manner as is presently provided by ~~such~~ *the* lease and
10 agreements with respect to lands subject to ~~such~~ *the* lease and
11 agreements.

12 ~~The~~

13 (e) *The* grant made by this section shall not become effective
14 unless and until the city files quitclaim to all previously granted
15 tidelands that are within the area hereby granted to the district by
16 ~~this act~~ *Chapter 815 of the Statutes of 1976* and described in
17 Section 15 *of Chapter 815 of the Statutes of 1976*.

18 SEC. 5. *Section 13 of Chapter 815 of the Statutes of 1976 is*
19 *amended to read:*

20 Sec. 13. (a) The State Lands Commission shall, from time to
21 time, recommend to the Legislature such amendments as it may
22 deem necessary in the terms and conditions of this act.

23 (b) The State Lands Commission shall, from time to time,
24 institute a formal inquiry to determine that the terms and conditions
25 of this act, and amendments thereto, have been complied with, and
26 that all other applicable provisions of law concerning these specific
27 granted lands are being complied with in good faith.

28 (c) The State Lands Commission shall, on or before December
29 31st of each year, report to the Chief Clerk of the Assembly and
30 to the Secretary of the Senate the full details of any transaction or
31 conditions reported to the commission pursuant to this act which
32 it deems to be in probable conflict with the requirements of this
33 act or with any other provision of law.

34 (d) *This section applies only to the tidelands and submerged*
35 *lands granted to the district pursuant to Section 7 of Chapter 815*
36 *of the Statutes of 1976.*

37 SEC. 6. *Section 14 of Chapter 815 of the Statutes of 1976 is*
38 *amended to read:*

39 Sec. 14. (a) The Legislature reserves the right to amend or
40 modify, in whole or in part, the tidelands and submerged lands

1 granted and conveyed in trust pursuant to ~~this act~~ *Chapter 815 of*
2 *the Statutes of 1976*; provided, however, that the state shall
3 thereupon assume and be bound by all lawful transactions and
4 obligations related to ~~such~~ *those* lands entered into or created by
5 the district during its holding of ~~such~~ *those* lands.

6 (b) *Subdivision (a) applies only to the tidelands and submerged*
7 *lands granted to the district pursuant to Section 7 of Chapter 815*
8 *of the Statutes of 1976.*

9 (c) *The trust grant made to the City of Martinez pursuant to*
10 *Section 3 of Chapter 815 of the Statutes of 1976, as amended by*
11 *Section 1 of Chapter 387 of the Statutes of 2002, is subject to*
12 *Article 5 (commencing with Section 6362) of Chapter 4 of Part 1*
13 *of Division 6 of the Public Resources Code.*

14 SEC. 7. *No reimbursement is required by this act pursuant to*
15 *Section 6 of Article XIII B of the California Constitution because*
16 *a local agency or school district has the authority to levy service*
17 *charges, fees, or assessments sufficient to pay for the program or*
18 *level of service mandated by this act, within the meaning of Section*
19 *17556 of the Government Code.*

20 SECTION 1. ~~It is the intent of the Legislature to enact~~
21 ~~legislation to provide for the transfer of that property in the City~~
22 ~~of Martinez known as the Martinez Marina, currently under the~~
23 ~~jurisdiction of the State Lands Commission, to the City of Martinez.~~